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OFFICE OF PETITIONS

Human Genome Science Inc. Intellectual Property Dept. 14200 Shady Grove Road Rockville, Maryland 20850

In re Application of

Ruben et al.

Application No. 09/880,748

Filed: June 15, 2001

Attorney Docket No. PF523P1

: DECISION GRANTING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely filed on March 20, 2006 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from a

determination of 354 days to a determination of either 374 or 428 days.

Applicants application for PTA is **GRANTED**.. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to adjust this determination to reflect this decision. The proper amount of PTA at the time of the mailing of the notice of allowance is 374 days.

Applicants analysis is very thorough and detailed. The Office thanks applicants for their review of such PTA determination. Applicants arguments and facts are accurate. Accordingly, the overall office delay is 614 days as asserted by applicant. As for applicant delay, the office believes the proper amount of delay is 240 days. The applicants addressed the submission of the September 27, 2005 paper as a reduction under 37 CFR 1.704(c)(8) but the reduction is pursuant to 1.704(b). The amendment after final on August 4, 2005 did not place the case in condition for allowance so the three-month clock continued until the submission on September 27, 2005 that placed the case in condition for allowance. The delay was the same 54 days as asserted by applicant but the rationale was because of 1.704(b) rather than 1.704(c)(8). Accordingly the correct amount of PTA at the time of the mailing of the notice of allowance is 374 days (614-240=374).

After the mailing of this decision, the Office will forward this patented file to the Office of Patent Publications for a prompt issuance of the patent. The Office notes that any Office failure to meet the requirements of 37 CFR 1.702(a)(4) and 1.702(b) will be additionally added to the present determination and provided notice of such change in the issue notification letter that is mailed to applicants approximately three weeks prior to the issue date of the patent. Any delays by applicant pursuant to 37 CFR 1.704(c)(10) will reduce the amount determined at the notice of allowance and be reflected in the same issue notification letter.

The Office has assessed the \$200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

Kery Fries
Senior Legal
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

cc: adjusted Pair calculation



## PALM INTRANET

Day: Friday Date: 6/9/2006 Time: 13:11:05

PTA Calculations for Application: <u>09/880748</u>								
Application Filing Date:	06/15/2001	PTO Delay (PTO):	509					
Issue Date of Patent:		Three Years:	0					
Pre-Issue Petitions:	0	Applicant Delay (APPL):	155					
Post-Issue Petitions:	0	Total PTA (days):	374					
PTO Delay Adjustment:	20							

File Contents History							
Number	Date	Contents Description	PTO	APPL	START		
65	06/09/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	20				
57	12/21/2005	MAIL NOTICE OF ALLOWANCE	17		44		
56	12/16/2005	ISSUE REVISION COMPLETED					
55	12/16/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED					
54	12/16/2005	CASE DOCKETED TO EXAMINER IN GAU					
53	12/16/2005	NOTICE OF ALLOWABILITY					
52	12/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE					
50	11/04/2005	REQUEST FOR EXTENSION OF TIME - GRANTED					
49	09/27/2005	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED					
48	09/28/2005	MAIL ADVISORY ACTION (PTOL - 303)					
47	09/26/2005	ADVISORY ACTION (PTOL-303)					
46	08/04/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED					
45	08/11/2005	DATE FORWARDED TO EXAMINER					
44	08/04/2005	AMENDMENT AFTER FINAL REJECTION					
43	05/04/2005	MAIL FINAL REJECTION (PTOL - 326)	20		35		
42	04/29/2005	FINAL REJECTION					
41	01/18/2005	SUBSTITUTE SPECIFICATION FILED					
40	01/31/2005	DATE FORWARDED TO EXAMINER					
39	01/18/2005	SUPPLEMENTAL RESPONSE		35	35		
		WORKFLOW INCOMING AMENDMENT IFW					
37	12/14/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED					
36	12/20/2004	DATE FORWARDED TO EXAMINER					

35	12/14/2004	RESPONSE AFTER NON-FINAL ACTION			
34	12/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
30	09/14/2004	REFERENCE CAPTURE ON IDS			
29	09/14/2004	MAIL NON-FINAL REJECTION	207		21
28	09/13/2004	NON-FINAL REJECTION			
25	12/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		46	21
24	11/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
23	11/05/2003	CASE DOCKETED TO EXAMINER IN GAU			
22	10/23/2003	DATE FORWARDED TO EXAMINER			
21	10/20/2003	RESPONSE TO ELECTION / RESTRICTION FILED		74	18
20	10/20/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	06/02/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	05/07/2003	MAIL RESTRICTION REQUIREMENT	265		-1
17	05/05/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
16	08/14/2002	CASE DOCKETED TO EXAMINER IN GAU			
15	06/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
14	05/24/2002	APPLICATION DISPATCHED FROM OIPE			
13	05/23/2002	APPLICATION IS NOW COMPLETE			
12	03/08/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11		A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10		NOTICE MAILEDAPPLICATION INCOMPLETE FILING DATE ASSIGNED			
6	12/07/2001	CORRESPONDENCE ADDRESS CHANGE			
5	12/05/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	11/28/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/19/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	06/15/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/15/2001	INITIAL EXAM TEAM NN			

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## **EXPLANATION OF PTA CALCULATION**